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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/894,653	06/27/2001	Daniel Dedu-Constantin	MS146953.1	6973
27195 7590 05/01/2007 AMIN. TUROCY & CALVIN, LLP 24TH FLOOR, NATIONAL CITY CENTER 1900 EAST NINTH STREET CLEVELAND, OH 44114			EXAMINER CHEN, TE Y	
			ART UNIT 2161	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

09/894,653

Applicant(s)

DEDU-CONSTANTIN ET AL.

Examiner

Susan Y. Chen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 28 February 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1,2,8,10,27 and 30-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☒ Claim(s) 1,2,8,10,27 and 30-35 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

***Response to Amendment***

This office action is in response to the amendment filed on Feb. 28, 2007.

Claims 1-2, 8, 10, 27 and 30-35 are pending for examination, claims 2, 8, 10, 27, and 30-33 have been amended; and claims 34-35 have been newly added.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-2, 8, 10, 27 and 30-35, are rejected under 35 U.S.C. 102(e) as being anticipated by Holder et al. (U.S. Patent No. 2002/0019824, hereinafter referred as Holder).

As to claim 1, Holder discloses a system for accessing data as claimed by applicant [e.g., Abstract], comprising:

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a) a parser to retrieve and parse information associated with a data source [e.g., the parser at Sections: 0014, 0021];

b) an XML data document component adapted to receive at least part of the parsed information and having a hierarchical representation of the at least a portion of the parsed information associated with the data source [e.g., Sections: 0012-0018];

c) a data set component and the data document component being mapped to each other to facilitate accessing the at least a portion of the parsed information in either representation [e.g., the mapping function performed by the generic processor at Section: 0038], changing the at least a portion of the parsed information in the representation accessed [e.g., the read/update operations performed by the generic processor at Section: 0039] and synchronizing these changes in the other representation [e.g., the use of a schema to synchronizing data changes at Section: 0022].

As to claim 2, in addition to the limitations recited in claim 1, Holder further discloses that the source data including at least one of relational database document [e.g., the use of XML schema technique at section: 0022, the use of XML Association tag technique at Sections:0034-0035, claim 5].

As to claim 8, Holder discloses a system facilitating access to data as claimed by applicant [Abstract], comprising:

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an XML data document component having a hierarchical representation of information associated with an XML source document [e.g., Abstract, the units: the XML tree of Fig. 1 and associated texts, Sections: 0015-0016];

a data set component having a relational representation of at least some of the information associated with the XML source document [e.g., the group.xml & the registry.xml specifications at Sections 0062-0064];

wherein the system is configured to facilitate accessing and changing information in the XML data document component and reflecting these changes in the data set component according to a mapping between the XML data document component and the data set component [e.g., Sections: 0010-0018, section: 0038].

As to claim 10, in addition to the limitations recited in claim 8, Holder further discloses that the system having an XML parser configured to retrieve information from the XML source document, and to send the information to the XML data document component and data set component [e.g., Section: 0021, 0076, Fig. 4 and associated texts].

As to claim 27, Holder disclose a computer storage medium having computer executable components for accessing data, comprising:

a data document component configured to store hierarchically represented source document information [e.g., the XML specification file at section 0015];

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a data set component configured to store relationally represented source document information [e.g., the different repositories like directories or inventory databases at section: 0022];

a component configured to facilitate synchronizing one or more changes made to the relationally represented source document information with the hierarchically represented source document information [e.g., Abstract, the use of data typing, Java Class plugging and XML tagging techniques in the data modeling schema at Fig. 1 and associated texts, Sections: 0013-0016];

As to claim 30, in addition to the limitations recited in claim 1, Holder further discloses that the data set component having a structural inference component configured to infer a relational structure of the data source [e.g., Section: 0050].

As to claim 31, in addition to the limitations recited in claim 1, Holder further discloses that the data set component having a schema component configured to receive a schema describing a relational structure of the data source [e.g., Section: 0024-0025, 0034].

As to claim 32, in addition to the limitations recited in claim 10, Holder further discloses a structural inference component configured to infer a relational structure of the XML source document [Sections: 0050].

As to claim 33, in addition to the limitations recited in claim 10, Holder further discloses the data set component having a schema component configured to receive a schema describing a relational structure of the data source [e.g., Sections: 0021-0022, 0034].

As to claims 34-35, these claims recite the same features as claim 1 in form of computer executable media product/system, hence, are rejected for the same reason.

### ***Response to Arguments***

Applicant's arguments filed Feb. 28, 2007 have been fully considered but they are not persuasive.

### ***Response to Arguments under 37 C.F.R. § 1.131***

The examiner disagrees with applicant's arguments that "A Declaration under 37 C.F.R. § 1.131 has been concurrently... This Declaration establishes that the subject matter recited in the claims was reduced to practice prior to the filing date of Holder, April 11, 2001, and thus, Holder is not prior art to the subject claims."

In reply to the above arguments, the examiner first noted that each of the sections of Exhibit A entitled "Mapping," "Updating ROM: sync-ing XOM" and "Updating XML: sync-ing ROM" don't have any time stamps, as such, there is not enough evidence to show if Exhibit A is related to Exhibit B. Furthermore, Declaration as filed on Feb. 28, 2007, fails to cite what it is meant to swear behind. In addition, the

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evidences submitted in the Declaration are insufficient to establish a "conception" and a "diligence" of the instant invention.

In terms of conception, the "Exhibit A" shows only that the applicant had an idea of instant invention. However, the evidence fails to show adequate proof that the ordinary skilled artisan could have reduced the idea in the form of the claims to practice. Moreover, the "Exhibit B" and "Exhibit C" do not resolve the deficiencies of "Exhibit A".

Because no facts have been shown to evidence that applicant had a "complete and operative invention" formed in the applicant's mind, thus, the Declaration as filed does not meet the burden for satisfactory evidence of the fact of prior invention as set forth in MPEP 715.07. In particular, the correspondence between elements of the claims and the evidence presented has not been addressed.

In terms of diligence, an applicant must account for the entire period during which diligence is required. *Gould v. Schawlow*, 363 F.2d 908, 919, 150 USPQ 634, 634 (CCPA 1966); *In re Harry*, 333 F.2d 920, 923, 1442 USPQ 164, 166 (CCPA 1964) (statement that the subject matter "was diligently reduced to practice" is not a showing but a mere pleading). A 2-day period lacking activity has been held to be fatal. *In re Mulder*, 716 F.2d 1542, 1545, 219 USPQ 189, 193 (Fed. Cir. 1983) (37 CFR 1.131 issue); *Fitzgerald v. Arbib*, 268 F.2d 763, 766 122 USPQ 530, 532 (CCPA 1959) (Less than 1 month of inactivity during critical period. Efforts to exploit an invention commercially do not constitute diligence in reducing it to practices. An actual reduction to practice in the case of design for a three-dimensional article requires that it should be embodied in some structure other than a mere drawing.); *Kendall v. Searles*, 173 F.2d



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986, 993, 81 USPQ 363, 369 (CCPA) (Diligence requires that applicant must be specific as to dates and facts.).

In summary, because the Declaration itself does not show what references applicant want to swear behind and the evidence submitted along with the declaration does not have sufficient proof that applicant had a complete conception of the invention coupled with due diligence to reduce practice of instant invention as prior to the effective date of the reference or to the filing date of the instant application, therefore, the Declaration submitted by applicant on Feb. 28, 2007, does not overcome the rejections on record.

Based on the discussion above, because applicant does not clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. Further, they do not show how the amendments avoid such references or objections, as such, the rejections are maintained.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Mullins (U.S. Patent No. 6,999,956) which discloses a dynamic object-driven database manipulation and mapping system for reading, writing, interpreting and manipulating XML and XMI data files.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

***Points of Contact***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susan Y. Chen whose telephone number is 571-272-4016. The examiner can normally be reached on Monday - Friday from 7:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mofiz Apu can be reached on 571-272-4080. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Susan Y Chen  
Examiner  
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April 26, 2007